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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.          | CONFIRMATION NO.       |
|--|-------------|----------------------|------------------------------|------------------------|
| 10/691,848   | 10/23/2003  | Takeharu Yamamoto    | 10407-68US<br>(A3039MT-US1)  | 6693                   |
| 570 7590 06/13/2008<br>PANITCH SCHWARZE BELISARIO & NADEL LLP<br>ONE COMMERCE SQUARE<br>2005 MARKET STREET, SUITE 2200<br>PHILADELPHIA, PA 19103 |             |                      | EXAMINER<br>BIBBINS, LATANYA |                        |
|  |             |                      | ART UNIT<br>2627             | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>06/13/2008      | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/691,848 | <b>Applicant(s)</b><br>YAMAMOTO ET AL. |  |
|                              | <b>Examiner</b><br>LaTanya Bibbins   | <b>Art Unit</b><br>2627                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-19 is/are allowed.
- 6) ☒ Claim(s) 4-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. In the remarks filed on January 31, 2008, Applicant amended claim 4 and submitted arguments for allowability of claims 4-7. Claims 4-19 are pending.

### *Response to Arguments*

2. Applicant's arguments with respect to claims 4-7 have been considered but are moot in view of the new grounds of rejection.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. **Claims 4-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.**

The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. New or amended claims which introduce elements or limitations which are not supported by the as-filed disclosure violate the written description requirement. See MPEP § 2163 I(B).

**Regarding claim 4**, in the amendment filed January 31, 2008, claim 4 was amended to include the limitations “a plurality of clock signals of **predetermined**

different frequencies” and “recording and reproducing at a plurality of **predetermined** different speeds.” However, the specification does not disclose either a clock signals of **predetermined** different frequencies or recording and reproducing at **predetermined** different speeds. Instead, the specification discloses a variable clock output unit that simply changes the frequency of a clock to be outputted when recording and reproducing speeds are changed and by example shows different clock frequencies for different recording/reproducing speeds such as 1x, 8x, and 16x (see paragraph [0073] of the specification). Nowhere in the specification is it disclosed that either the frequency of the clock signal or the recording and reproducing speed are predetermined values. Therefore, the claimed limitations “a plurality of clock signals of **predetermined** different frequencies” and “recording and reproducing at a plurality of **predetermined** different speeds” of amended claim 4 are not supported by the as-filed disclosure, and the written description requirement is violated.

**Dependent claims 5-7** do not resolve the 35 U.S.C. 112 first paragraph issues of independent claim 4 recited above and are therefore rejected as incorporating the deficiencies of a claim upon which they depends.

### ***Claim Rejections - 35 USC § 103***

**5.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**6. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Araki et al. (U.S. Patent Number 6,009,056) in view of Yoshizawa (JP 11-025486).**

**Regarding claim 4**, Araki discloses an optical disc device for emitting a light beam to an optical disc having a track for recording data (Col. 3, Lines 11-15), the optical disc device changing recording and reproducing speeds by changing a disc motor rotation, the optical disc device comprising: a converting section which converts, into an electric signal, light reflected from the optical disc or light transmitted through the optical disc (Col. 3, Lines 13-14), a focus actuator for moving a focus of the light beam perpendicularly to a data surface of the optical disc (Col. 2, Lines 41-44); a tracking actuator for moving the light beam in a radius direction of the optical disc (Col. 2, Lines 41-44); and a control section which performs an operation according to the electric signal and generates a control signal for controlling the focus actuator so that the light beam keeps a predetermined converging state on the data surface and controlling the tracking actuator so that the light beam is positioned at a center of the track (Col. 3, Lines 17-19; see *deviation and error* in Fig. 4).

Araki fails to disclose while Yoshizawa discloses a variable clock output section for being operable to generate a plurality of clock signals of predetermined different frequencies (drawing 2 elements 9 and 11 and the discussion in paragraph [0011]), wherein the optical disc device performs the recording and reproducing at a plurality of predetermined different speeds (see the discussion in paragraphs [0012]-[0014]) and when one speed is selected from the plurality of different speeds, the variable clock output section outputs one which is selected from the plurality of clock signals and

corresponds to the selected speed (see the abstract and the discussion in paragraphs[0008] and [0011]-[0014]), the control section performs an operation to be performed in synchronization with the clock signal of the variable clock output section (see the abstract and the discussion in paragraph [0012]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Yoshizawa into that of Araki. One of ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings in order to simply the design the design and reduce the cost as suggested by Yoshizawa (see the abstract and paragraph [0007]).

**Regarding claim 5**, Araki further discloses an input/output section which receives the electric signal converts the signal into a digital signal, outputs the signal to the control section, receives a control signal from the control section, converts the signal into an analog signal, and outputs the signal to the focus actuator and the tracking actuator (Col. 3, Lines 11-19; Col. 2, Lines 41-43; *focusing and tracking control systems*, Col. 7, Lines 46-47; see A/D and D/A converters in Fig. 4), wherein the input/output section has a constant operating clock regardless of the recording speed and/or the reproducing speed (Col. 6, Lines 61-65).

**Regarding claim 6**, Yoshizawa further discloses the control section generates the control signal by transmitting the electric signal through a filter having a predetermined characteristic, and the characteristic of the filter is varied according to the recording speed and/or the reproducing speed (see the discussion regarding the digital filter in the abstract and paragraph [0012]).

**Regarding claim 7**, Yoshizawa further discloses the characteristic of the filter is determined by a filter coefficient and a frequency of the clock signal, and the filter coefficient is constant regardless of the recording speed and/or reproducing speed (see the discussion regarding the coefficients of the digital filter in the abstract and paragraph [0012]).

### ***Allowable Subject Matter***

**7. Claims 8-19** are allowed.

**8.** The following is an examiner's statement of reasons for allowance:

Claims 8-19 are allowed for the reasons indicated in the previous Office Action.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

**9.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaTanya Bibbins whose telephone number is (571)270-1125. The examiner can normally be reached on Monday through Friday 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571 272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LaTanya Bibbins/  
Examiner, Art Unit 2627

/Wayne Young/  
Supervisory Patent Examiner, Art Unit 2627